

ORDINANCE NO: #747

WHEREAS, AN ORDINANCE RECOGNIZING TREES ARE BENEFICIAL FOR THE CITY OF LOWELL, THE AIR, THE BEAUTIFICATION, AND THE AESTHETIC RESOURCES; AND WHEREAS, TREES HAVE A TRANSFORMING EFFECT UPON OUR CITIES AND OUR COUNTRYSIDE; AND TREES ARE A VALUABLE ADDITION TO OUR QUALITY OF LIFE; ADDING TO PROPERTY VALUE, ATTRACTING NEW BUSINESSES, PROVIDING SHELTER FOR WILDLIFE, SLOWING RAINFALL RUNOFF, AND PREVENTING SOIL EROSION; AND WHEREAS, BY HAVING AN ESTABLISHED TREE ORDINANCE THE COMMUNITY MAY CERTIFY AS A TREE CITY USA.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LOWELL, ARKANSAS:

Section 1: The purpose of the Lowell Tree Ordinance shall be promoting the responsible planting of trees on public and private property, public education about trees, promotion of proper maintenance of trees, advocating trees within the City, and developing innovative and joint funding for projects from a variety of sources.

Section 2: Definitions

1. *Commercial Tree Service.* A person who performs work on trees for profit.
2. *DBH.* Refers to the measurement taken at chest height (approximately five feet from ground) along tree trunk to determine caliper measurement. DBH stands for Diameter x Base x Height.
3. *Drip line.* An imaginary vertical line that extends downward from the outermost tips of the tree branches to the ground.
4. *Hazardous tree.* A tree or tree parts with high probability of falling or causing injury or property loss; also, a tree harboring insects or a disease that could be detrimental to surrounding trees.
5. *Sight Triangle.* A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. Also known as sight easement or line of sight.

6. *Person.* An individual, firm, corporation, partnership, business, group of individuals, city department or other entity which acts singly or collectively for a common purpose.
7. *Public grounds.* Areas including street rights-of-way, alleys, parks, medians, substations, treatment plants, plazas, squares, public buildings and any other area designated for public use.
8. *Street right-of-way.* The area designated for city improvements on both sides of the street.
9. *Topping.* Also referred to as stubbing, dehorning and heading; it is the severe removal of the tree canopy back to large stubs.
10. *Tree.* Any self-supporting woody perennial plant, usually having a main stem or trunk and many branches, and at maturity normally attaining a trunk diameter greater than three inches at DBH and a height of over ten feet.

Section 3: Administration, Establishment of Lowell Parks & Recreation Department as Tree Management Authority in the City of Lowell

The City of Lowell Parks & Recreation Department shall be responsible for administration this ordinance and for advising the Mayor and City Council as to the management of the community forest of Lowell.

Section 4: Responsibilities

The purpose of the Lowell Tree Ordinance shall be promoting the responsible planting of trees on public and private property, public education about trees, promotion of proper maintenance of trees, advocating trees within the City, and developing innovative and joint funding for projects from a variety of sources.

- (A) The City of Lowell Parks & Recreation Department shall keep tree management records and have these records available to the public at the City Administration Offices.
- (B) It shall be the responsibility of the City of Lowell Parks & Recreation Department to study, investigate, consult, develop, update annually, and administer a written plan for the care, preservation, pruning, planting or removal of trees and shrubs in parks, along streets, and in other public areas. Such plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official comprehensive tree management plan.
- (C) It shall be the responsibility of the City of Lowell Parks & Recreation Department staff to investigate available grants, loans or contributions from other governmental agencies, public or private corporations or individuals.

- (D) It shall be the responsibility of the City of Lowell Parks & Recreation Department to encourage and foster the planting of trees and other vegetation on private property for the beautification of the City; and disseminate information to the public concerning proper selection and care of trees.

Section 5: Tree Planting, Maintenance and Removal.

It is the public policy of the City of Lowell to maintain existing trees and to provide for and encourage the planting of new trees within Lowell to the greatest extent possible.

- (A) The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the public right-of-way of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve and enhance the symmetry and beauty of such public grounds.
- (B) The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign or sight triangle at intersections.
- (C) Trees shall not be removed from a street right-of-way or other public ground unless approval is received from the City.
- (D) It shall be a violation of this ordinance to damage, destroy or mutilate any tree in a public right-of-way or on other public grounds, or attach or place any rope, nail or wire, sign, poster, handbill or any other object to any such tree, unless approval is received from the City.
- (E) Trees shall not be planted to hinder use of or conceal a fire hydrant from the street or impede the sight triangle on any street.
- (F) It shall be unlawful for any person to top or cut back to stubs the crown of any tree in street rights-of-way or on other public grounds.
- (G) City employees performing tree work on public grounds shall be trained in basic tree science and the proper techniques of tree pruning.
- (H) Public utility companies shall notify the City prior to pruning any tree located on city-owned property for the purpose of maintaining safe line clearance and shall carry out all such work in accordance with accepted arboricultural practices.
- (I) List of recommended trees and shrubs (See Attachment A).

Section 6: Commercial Tree Service

- (A) Requirements to procure a business permit to engage in cutting, trimming, pruning, removing, spraying, or otherwise treating trees shall include: attendance at, and completion of an arborist training program approved by

the City of Lowell, subject matter being related to cutting, pruning, trimming, removing, spraying, or otherwise treating trees.

- (B) Any applicant for a tree service business permit shall provide at the time of application a certificate of insurance showing insurance coverage for general liability, automobile liability, worker's compensation, and other coverage required by law.
- (C) No permit shall be required of any public service company or City employee doing such work in the pursuit of their public service endeavors.
- (D) Tree service contractor's permits may be renewed by filing a renewal application with the City, including the annual permit fee and proof of insurance as required herein.
- (E) Any permit issued hereunder shall not be transferable.

Section 7 Hazardous and Nuisance Trees

- (A) The city shall have the right to cause the removal of any dead or diseased trees on private property within the City, when such trees constitute a hazard to life and property, or harbor insects or disease which constitutes a potential threat to other trees within the city. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.
- (B) It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection.

Section 8: Tree Protection and Landscaping

- (A) Subdivision and development plans are encouraged to preserve natural vegetation areas as much as possible. Streets, parcels, structures and parking areas should be laid out to minimize the destruction of wooded areas or outstanding tree specimens. Developers of land are encouraged to designate wooded areas as park reserves or wildlife habitat.
- (B) The Planning Commission does consider a landscape plan as part of its review of any subdivision plat, development plan or site plan application.
- (C) No person shall deposit, place, store, or maintain upon any public place of the municipality, any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, or nutrients to the roots within the drip line of any tree growing therein, except by written permit of the City.

Section 9: Penalty

Any person violating any provision of this ordinance shall be upon conviction or a plea of guilty subject to a fine of \$200 plus the cost of replacing the damaged, destroyed or mutilated tree with a comparable tree(s).

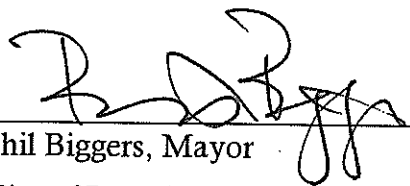
Section 10: Enforcement

City of Lowell Code Enforcement Department shall be responsible for enforcing this ordinance on private and public property.

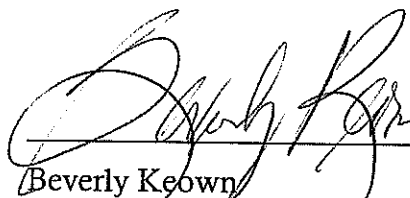
Section 11: Conflicts in Regulation

- (A) All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of the conflict.
- (B) Should any portion of this Ordinance be deemed illegal and/or unconstitutional and/or held null and void, said findings and/or holdings shall not affect the other portions of this Ordinance and any portion of this Ordinance not so found shall remain in full force and effect.

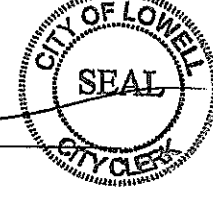
Passed and approved this 18th day of April 2006.



Phil Biggers, Mayor
City of Lowell



Beverly Keown
City Clerk



ATTACHMENT A

LIST OF RECOMMENDED TREES AND SHRUBS

The following lists indicate plantings that are recommended for planting selection by the City of Lowell. The lists are by no means comprehensive and are intended merely to suggest the types of flora which would be appropriate and preferred for screening and shading purposes. Plants were selected for inclusion on these lists according to four principal criteria:

1. General suitability for the climate and soil conditions for this area,
2. Ease of maintenance,
3. Tolerance of city conditions, (ie: power lines, street locations, visual requirements, ect)
4. Availability from area nurseries.

When selecting new plantings for a particular site, a developer should first consider the type of plants which are thriving on or near that site. However, if an introduced species has proven highly effective for screening or shading in this area, it too may be proper selection.

PREFERRED TREE CHOICES

Common Name	Genus/Species
<u>Large Trees</u>	
Baldcypress	Taxodium distichum
Chinese Elm	Ulmus parvifolia
Chinese Pistache	Pistacia chinensis
Ginkgo (**male trees only)	Ginkgo biloba
Norway Maple	Acer platanoides
Red Maple	Acer rubrum
Red Oak	Quercus rubra
River Birch	Betula nigra
Sugar Maple	Acer saccharum
Thornless Honey Locust	Gleditsia triacanthos inermis
White Oak	Quercus alba
Willow Oak	Quercus phellos
Zelkova	Zelkova sp.
<u>Evergreen trees</u>	
American Holly	Ilex opaca

Atlas Blue Cedar	Cederus atlantica
Japanese Black Pine	Pinus thunbergii
Norway Spruce	Picea abies
Scotch Pine	Pinus sylvestris
Southern Magnolia	Magnolia grandiflora
White Pine	Pinus albicaulis
<u>Small Trees</u>	
Amur Maple	Acer ginnala
Eastern Redbud	Cercis Canadensis
Flowering Cherry	Prunus cargenti
Flowering Dogwood	Cornus florida
Golden Raintree	Koelreuteria paniculata
Japanese Maple	Acer palmatum
Kousa Dogwood	Cornus kousa
Little Leaf Linden	Tilia cordata
Ornamental Plum	Prunus cerasifera
Red Dogwood	Cornus florida cv. Cherokee Chief
Saucer Magnolia	Magnolia soulangeana
Star Magnolia	Magnolia stellata
Wheeping Cherry	Prunus subhirtella

PREFERRED SHRUBS

Common Name	Genus/Species
Azalea (shaded plantings)	Azalea sp.
Border Forsythia	Forsythia x intermedia
Burning Bush	Euonymus alatus
Cherry Laurel	Prunus laurocerasus
Chinese Juniper	Juniperus chinensis
Chinese Lilac	Syringa chinensis
Common Boxwood	Buxus sempervirens
Cotoneaster	Cotoneaster sp.
Crapemyrtle	Lagerstroemia indica
Creeping Juniper	Juniperus horizontalis
Foster Holly	Ilex X attenuate
Glossy Abilia	Abelia X grandiflora
Inkberry Holly	Ilex glabra
Japanese Holly	Ilex crenata
Mugo Pine	Pinus mugo
Nandina	Nandina domestica

Oakleaf Holly	
Skypencil Holly	Ilex Brenata
Spirea	Spirea sp.
Viburnum	Viburnum sp.
Yaupon Holly	Ilex vomitoria
Yew	Taxus sp.

TREES AND SHRUBS THAT MAY NOT BE USED

Common Name	Genus/Species
American Elm	Ulmus Americana
Bradford Callery Pear	Pyrus calleryana
Common Privet	Ligustrum vulgare
Euonymus	Euonymus europaeus cv.
Ginkgo (**Female variety)	Ginkgo biloba
Pin Oak	Quercus palustris
Pine (lumbar varieties)	Pinus sp.
Silver Maple	Acer saccharinum
Sweetgum	Liquidambar styraciflua

SPACING

Plant size	From corners	From walls	Distance for mass planting
Small	8'	12'	6– 12'
Medium	12'	15'	16– 30'
Large	16'	20'	30– 40'